1886

IN RE MAHOMED SHAH.

IN this case the Official Assignee applied to the Court for an order that he might be at liberty to pay and divide amongst the creditors of the estate of the insolvent, after proof of their debts, a dividend amounting to Rs. 100 per cent. in proportion to their respective debts and claims; and that he might further be at liberty to pay interest on such of the admitted claims as bore interest at such rate as the Court might direct, from the date of the filing of the petition of insolvency to the present application; and that he might be at liberty to retain his commission on the amount of such interest, and to pay over to the insolvent such balance as might remain due after making all such payments as aforesaid.

The petitioner stated that the debts due from the estate amounted to Rs. 1,116-11-9; that there was then in his hands the sum of Rs. 12,106-12-11, belonging to the estate; that after payment of his commission and other charges there would remain in his hands the sum of Rs. 12,020-15-7, capable of being divided amongst the creditors of the estate; and that after payment of the scheduled creditors in full there would remain in his hands the sum of Rs. 10,904-3-10; he therefore asked for the order set out above.

The *Official Assignee* (Mr. *J. C. MacGregor*) appeared in person.

NORRIS, J.—In this case I think the surplus assets in the hands of the Official Assignee, after payment of the debts in full, ought to be applied in payment of interest at 6 per cent. on contract debts which expressly or impliedly carry interest; and that the Official Assignee should retain his commission of five per cent on the amount of such interest. The balance then remaining in the hands of the Official Assignee should be paid to the insolvent.

T. A. P. *Order as prayed.*

Before Mr. Justice Norris.

1836
March 3.

IN RE J. W. FOX, AN INSOLVENT.

Insolvency—Final discharge where insolvent is not personally present in Court—Affidavit explaining absence—Opposition to final discharge.

An insolvent who has obtained a rule *nisi* for his final discharge, but who is not personally present in Court on the return of the rule, is entitled, where no one appears to oppose the rule, to have the rule made absolute on his putting in a sufficient affidavit explaining his absence.

1886

IN RE J. W. FOX.

THIS was an application that an order, *nisi*, dated the 13th January 1886, directing the final discharge of the insolvent, might be made absolute, notwithstanding the fact that the insolvent was not himself present before the Court.

The insolvent had, on the 13th January 1886, obtained a rule *nisi* directing his final discharge, and fixing the further hearing of the matter for the 3rd March.

On that day no creditor appeared to oppose the rule, nor was the insolvent personally present in Court; he, however, appeared through his Attorney, who asked for the insolvent's final discharge, and placed before the Court an affidavit sworn on the 2nd March by the insolvent from which it appeared that the insolvent was the Commander of the S. S. "Indore" trading between Calcutta and Assam; that he had arrived in the port of Calcutta on the 28th February; that in the ordinary course of his employment he had been ordered to leave Calcutta on the morning of the 3rd March 1886, bound on a voyage to Assam in command of the said steamer, and would be unable, therefore, to appear before the Court in the forenoon of that day at the hearing of the matter of his petition and application to make absolute the order *nisi*, dated the 13th January 1886.

Mr. *Orr* appeared for the Insolvent.

NORRIS, J.—I have consulted Mr. Justice Pigot and Mr. Justice Trevelyan, and they both agree with me in thinking that the affidavit is sufficient in this case to enable me to make the rule absolute. The affidavit states sufficient reasons for the absence of the insolvent; and there is no opposition; if any one had appeared to oppose I should not have made the order.

Rule absolute.

Attorneys for insolvent: Messrs. *Barrow & Orr.*

T. A. P.

Before Mr. Justice Norris.

1886

May 5.

IN RE NOBODEEP CHUNDER SHAW, AN INSOLVENT.

Insolvency—Infant—Minor—Trading contract—Insolvent Act (11 & 12 *Vict.*,) *c.* 21.

A minor who has traded cannot be adjudicated an insolvent on the petition of the persons who have supplied him with funds for the purposes of his business.